

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**THE LUTHERAN CHURCH – MISSOURI
SYNOD, a Missouri nonprofit corporation
Plaintiff,**

V.

**DONALD CHRISTIAN, CHRISTOPHER
BANNWOLF, CONCORDIA
UNIVERSITY TEXAS, INC., & JOHN
DOES 1-12**
Defendants



Case No. 1:23-cv-1042-RP

DEFENDANTS' UNOPPOSED MOTION TO CONSOLIDATE

Defendants Concordia University Texas, Inc. (“CTX”), Donald Christian (“Christian”), and Christopher Bannwolf (“Bannwolf”) submit this Motion to Consolidate asking the Court to consolidate this cause with *Concordia University Texas v. The Lutheran Church – Missouri Synod, an unincorporated association of Lutheran Congregations et. al.*, Case No. 1:24-cv-176-RP (W. Dist. Tex.) (“**CTX v. Synod**”) as follows:

1. A Court may join for hearing or trial any or all matters at issue in actions, or consolidate actions, where the actions share common question of law or fact. Fed. R. App. P. 42(a)(1)-(2). This cause and *CTX v. Synod* share parties, facts, and questions of law. In the interest of judicial economy, the Court should consolidate the actions. Fed. R. App. P. 42(a)(1)-(2).
2. This cause shares parties, facts, and requested relief with *CTX v. Synod*. Plaintiff The Lutheran Church-Missouri Synod, a Missouri nonprofit corporation (“LCMS”), filed this cause of action against Defendants seeking declaratory and monetary relief on behalf of itself and Synod, an unincorporated association of Lutheran Congregations and ministers (“Synod”). *See* **1st Am. Comp.** ¶¶ 50, 78; *see also* **1st Am. Comp.** ¶ 8, fn. 1. *CTX v. Synod*, is a suit initiated by CTX

against Synod and LCMS in Texas State Court, which was removed to the Western District of Texas by Synod and LCMS. Notice of Removal [Doc. 1], *CTX v. Synod*, Case No. 1:24-cv-176-RP (W. Dist. Tex., Feb. 21, 2024). Both this case and *CTX v. Synod* arise out of a dispute regarding the validity of changes made to CTX's governing documents and the alleged rights and remedies to which CTX, Synod, and LCMS are entitled. *Compare* **1st Am. Comp.** ¶¶ 29-38 *with* Notice of Removal, App. 4-6 ¶¶ 12-20, *CTX v. Synod*, Case No. 1:24-cv-176-RP (W. Dist. Tex., Feb. 21, 2024); *compare also e.g.* **1st Am. Comp.** ¶¶ 50-52 *with* Notice of Removal, App. 4-6 ¶ 23, *CTX v. Synod*, Case No. 1:24-cv-176-RP (W. Dist. Tex., Feb. 21, 2024). Both cases are before this Court based on diversity jurisdiction. **1st Am. Comp.** ¶ 6 *with* Notice of Removal ¶ 3, *CTX v. Synod*, Case No. 1:24-cv-176-RP (W. Dist. Tex., Feb. 21, 2024).

3. Defendants have challenged this Court's diversity jurisdiction on the basis that Synod is a party of interest which shares citizenship with CTX. Defendants are filing a motion to dismiss in this cause concurrent with this motion. *See* **Motion to Dismiss**. CTX is also filing a motion to remand in *CTX v. Synod*. Motion to Remand, *CTX v. Synod*, Case No. 1:24-cv-176-RP (W. Dist. Tex., Apr. 4, 2024). Both the Motion to Dismiss and the Motion to Remand assert that Synod is a party in interest, with capacity, that shares citizenship with CTX, Christian, and Bannwolf. *Compare* Motion to Remand ¶¶ 24-45, *CTX v. Synod*, Case No. 1:24-cv-176-RP (W. Dist. Tex., Apr. 4, 2024) *with* **Motion to Dismiss** ¶¶ 22-49. These arguments share questions of law for the Court's resolution. Accordingly, in the interest of judicial economy and consistency, the Court should consolidate these cases for determination of the motion to dismiss and the motion to remand.

WHEREFORE PREMISES CONSIDERED, Defendants pray that the Court enter an order granting this motion to consolidate and that the Court grant the motion to dismiss and motion to remand.

Respectfully submitted,

/s/ Daniel R. Richards

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BANNWOLF**

CERTIFICATE OF CONFERENCE

I hereby certify that on March 11, 2024, Counsel for Defendants conferred with Counsel for Plaintiff with regard to the relief requested in this motion and they do not oppose this motion.

/s/ Daniel R. Richards

DANIEL R. RICHARDS

CERTIFICATE OF SERVICE

I hereby certify that on the April 3, 2024, I electronically filed the above and foregoing document, which will send notification of such filing to:

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